

## **REMARKS**

### **I. INTRODUCTION**

Upon entry of the present amendment, claims 1, 3-8 and 12-19 will be pending in the present application. Claim 1 has been amended and claims 2, 10, and 11 have been cancelled. Claim 1 has been amended to recite that the closure includes an annular channel formed between the cover and the upper portion of the skirt for receiving the rim and the at least one projection of the container, and wherein the skirt of the closure includes at least one inwardly directed projection dividing the upper and lower portions selected from i) a projection that extends therearound partway along its depth, and the projection engages with the projection of the container; and ii) a projection that extends therearound partway along its depth, and the projection engages beneath the projection of the container. Support for the amendments to claim 1 can be found, *inter alia*, in cancelled claims 2, 10, and 11 as originally presented and in paragraph 5 of the specification. No new matter has been added herein by the present amendment.

In view of the foregoing amendments and the following remarks, Applicants respectfully submit that the claims are now in condition for allowance. Applicants point out that the amendments made herein are made without prejudice to the future prosecution of such cancelled, amended or modified subject matter in a related divisional, continuation or continuation-in-part application.

II. REJECTIONS UNDER 35 U.S.C. § 102

Claims 1-8 and 10-19 stand rejected under 35 U.S.C. §102(b) as being anticipated by US 5,294,015 ("Landis"). According to the Examiner Landis teaches an arrangement comprising an open-ended container and closure therefore. The container, according to the Examiner, comprises at least one projection extending at least partially around its outer surface adjacent the rim of its open, upper end. The Examiner asserts that the closure comprises a cover for extending over the open upper end and a skirt depending therefrom having an upper portion at a lead line and a lower portion below a hinge line. According to the Examiner the lower portion could also be considered the portion extending at and below projections 48 in Landis. The Examiner asserts that the lower portion of the skirt may be flipped between a raised configuration for mounting and removal of the cover on the container and a lowered configuration in which it engages with the projection of the container thereby to retain the cover on the container. Applicants respectfully submit that these anticipation rejections should be withdrawn for at least the following reasons.

Claim 1 is directed to an arrangement comprising an open-ended container and closure therefore, wherein the container comprises at least one projection extending at least partially around its outer surface adjacent the rim of its open, upper end, and wherein the closure comprises a cover for extending over the open upper end and a skirt depending therefrom having an upper and a lower portion, whereby the lower portion of the skirt may be flipped between a raised configuration and a lowered configuration in which it engages with the projection of the container. As amended, the claimed invention requires the closure to include an annular channel formed between the cover and the upper portion of the skirt for

receiving the rim and the at least one projection of the container, and it requires that the skirt include at least one inwardly directed projection dividing the upper and lower portions, which projection engages beneath the projection of the container. The cited reference fails to disclose each and every element of the claimed invention. Landis fails to disclose the annular channel as recited in the claimed invention and fails to disclose the inwardly directed projection dividing the upper and lower portions of the skirt.

Landis discloses an arrangement comprising an open-ended container and a closure therefore. The upper end of the open-ended container includes a projection and the closure includes a skirt having an upper portion and a lower portion which lower portion is either in a raised position or a lowered position hinging at a hinge line. The lower portion of the skirt in Landis also may include a projection 48 (Figure 7). However, this projection 48 in Landis does not divide the upper and lower portions of the skirt as is required in the currently claimed invention. Moreover, the upper and lower sections of Landis are divided by a groove 60 (Figure 7) which defines a hinge between the upper and lower portions of the skirt. See, *Landis* at column 5 lines 60 to column 6 line 3. Accordingly Landis fails to disclose all elements of the claimed invention, nor does the cited reference suggest that the projection should be positioned at the hinge point. Indeed, positioning the projection at the hinge point of Landis would be counterproductive to weakening the hinge point.

In addition, Landis fails to disclose the closure to include an annular channel formed between the cover and the upper portion of the skirt for receiving the rim and the at least one projection of the container. Landis discloses a channel 40

when the cover is not engaged with the upper end of the open-ended container (no closure). See, *Landis* at Figure 3. However, this channel also includes a (rubber) gasket 58, which when the cover is covering the open-ended container (closure) is deformed or completely closed. As a result the annular channel 40 is no longer present when the cover is engaged with the upper end of the container. Thus, the closure does not include an annular channel that is formed between the cover and the upper portion of the skirt and the at least one projection of the container, as required in the claimed invention. For this additional reason *Landis* does not disclose all of the elements of the claimed invention, as amended.

Therefore, for at least the preceding reasons, it is respectfully submitted that the rejections of the claims under 35 U.S.C. § 102(b) have been overcome and should therefore be withdrawn.

III. CONCLUSION

Applicants respectfully submit that the pending claims are in condition for allowance and request that such action be taken. If for any reason the Examiner believes that prosecution of this application would be advanced by contact with the Applicants' attorney, the Examiner is invited to contact the undersigned at the telephone number below.

Respectfully submitted,

Dated: August 17, 2011

By: /Willem F.C de Weerd/  
Willem F.C. de Weerd (Reg. No. 51,613)

KENYON & KENYON LLP  
One Broadway  
New York, NY 10004  
Direct Dial: 212-908-6090  
Fax: 212-425-5288  
General Tel: 212-425-7200